

Minutes of the Hurricane City Council held on Thursday, November 5, 2015 at 5 p.m. in the Council Chambers at 147 N. 870 West, Hurricane, Utah.

Members present: Mayor John Bramall, Council members Darin Larson, Kevin Tervort, Ethelyn Humphries, and Darin Thomas were present.

Council member Pam Humphries was excused. Council members elect Cheryl Reeve and Kevin Thomas were also present.

Staff members present: City Manager Clark Fawcett, Assistant City Manager Kaden DeMille, City Engineer Arthur LeBaron, Police Sargent Jarod Brisk, GIS Specialist Joe Rhodes, City Attorney Fay Reber, and Planning Director Toni Foran.

5:00 p.m. Pre-meeting - Discussion of Agenda Items, Department Reports

Jarod Brisk mentioned progress made at a meeting regarding safety limits on the shooting park so the Police Department won't have to deal with projectiles in the neighborhoods. The department is trying to sell their used Ford trucks.

Mike Vercimak reported the trail head at Confluence Park is done and looks great. Streets Department has started crack seal work. Water Department is getting ready to clean the irrigation pond and will be shutting down the secondary irrigation system while they do it.

John Bramall said he appreciated the efforts of all the departments and said the fence around the airport is looking great and that he is happy to see Frog Hollow Wash cleaned out.

Arthur LeBaron said the City is advertising for consultants to complete the environmental document for the 400 South project because it is a grant project with Federal money. There will be delays as agencies review the document and give approvals. He has been in contact with the residents who requested the trail so they are aware of the status.

Arthur announced January 4th is the date set for the opening of the next segment of the Southern Parkway (SR-7), if the contractor has good paving weather between now and then.

Mr. LeBaron said he has completed the transaction buying the property north of the Animal Shelter and the property owner deeded all the property in 700 West to the City.

He stated the Dixie MPO has commissioned a transit study for the route between St. George and Springdale. The consultant doing the study has over 30 years of experience and told the MPO if it doesn't work, it doesn't work. He will be surveying Hurricane residents to help determine demand. John Bramall asked the Council about their feelings concerning providing transportation for tourists, low income and disabled residents, and elderly people who would be using transit. Darin Larson said he feels it depends on whether or not the rates are affordable and how much subsidy is required. Ethelyn Humphries asked if the St. George Transit system runs in the black. Clark Fawcett confirmed it is subsidized and Darin Larson said he sees it like other benefits provided for citizens that have to be subsidized. John Bramall said if the ¼% sales tax were adopted for transit systems, it should keep the cost down for users and for local municipalities. The study will come out next year and he recommended approving the transit goes on the ballot in Washington County at the same time as the Presidential elections. Mayor Bramall commented transit is needed for seniors and he predicted a demographic shift towards 30% seniors over the next 15 years. Arthur LeBaron said the consultant mentioned the idea that large employers and hotels can pay into a public transit system to benefit their employees and guests.

Council reports:

Darin Larson reported on the last Planning Commission meeting. He reported on the Downtown Plan and said he has been talking to business owners about serving on a committee. A meeting is planned in January. Arthur LeBaron suggested the Committee look at the cross sections proposed for the historic gridded streets in the downtown area. He said UDOT has proposed to extend the 30 mph zone to 700 West and push the 40 mph zone to 1150 West. Arthur said Robert Dowell of UDOT was contacted by Pam Humphries about lowering the limits. Lower speed limits were said to be a good idea through this area.

Ethelyn Humphries said Ash Creek has been asked to waive to impact fee for the restroom at Sand Hollow golf course if Sand Hollow keeps the lease payment to Hurricane City current. She reported recycling will start the first part of February.

Toni Foran reported on increased activity in the Planning Department and on a proposal to change the driveway restrictions in residential neighborhoods.

John Bramall reported Washington City and the Mayor's Association are asking if the communities want to celebrate a week long Days of 47 Celebration county wide or just keep doing the local celebrations. He said they have talked about a junior rodeo on the days leading up to the 24th and a large celebration like the Stadium of Fire celebration on Pioneer Day. He stated the City could perhaps contribute towards the fireworks cost and encouraged an all-inclusive recognition of the pioneer heritage from all cultures and religions. He stated it would take a huge paradigm shift to go from local celebrations to one county wide celebration.

Mayor Bramall reported they had two meetings regarding the Hurricane Sports Park this week and have kicked off the feasibility study. The consultants were hired for \$72,000 and will be surveying recreation directors, sports facility managers and others as well as holding public forums.

Mayor Bramall said Intermountain Health Care made a presentation regarding genomic testing and patented treatment at the mayor's meeting. He said they are having incredible success rates in treating cancer tumors, besides having a top rated heart health facility. Intermountain will be investing in new buildings on their River Road campus and are purchasing state of the art imaging equipment to be used during surgery. Mayor Bramall explained the human brain shrinks when the skull is opened, resulting in inaccurate tumor surgeries based on imagery obtained before the surgery.

Review of agenda items:

Transient lodging and short term vacation rentals. Mayor Bramall explained this was on the agenda at the last meeting and Pam Humphries motioned to put off a decision for two weeks and look at distances. Darin Larson said he did some research on vacation rentals in different communities and saw a variety of methods to limit numbers including by number, with buffer zones, and by street segments, and there is not any consistent method. He especially looked at Durango, Colorado, a city about the same size as Hurricane City, but their historic street segments are smaller than Hurricane's so their segment limit does not apply well to Hurricane City.

He said some of the Council members voted against the ordinance with the 1,000' separation and suggested they discuss pros and cons for other distances. He said there should be a compromise and then maybe the ordinance gets revisited in a couple of years. He asked, "What is a good separation?" and stated it is not an exact science. He agreed there does need to be some kind of buffer to protect neighborhoods.

Ethelyn Humphries after looking at Sonoma County's ordinances it appeared they did review the ordinance regularly. She said she liked the limit on a total number of permits. She stated she feels using footage is pretty inexact. She also expressed a concern that the City may not be ready to do anything until it has an enforcement officer.

Darin said he believes an enforcement officer is necessary but not necessarily to enforce the few complaints a month. Code enforcement could do a lot more than vacation rental enforcement.

Fay Reber said he feels he is going to hate enforcement because of the need to prosecute if police officers issue a citation. The way the ordinance is drafted there are citations and criminal prosecution. Like any other criminal case, the City has to prove without a reasonable doubt and there needs to be evidence. If the City proceeds administratively, then evidence would have to be presented to the Council. Someone is going to have to spend a significant amount of time investigating and providing proof of violations.

John Bramall stated there rights of neighbors and rights of property owners both to be considered.

Fay Reber presented an example of a house on a cul-de-sac with 10 vacation rental occupants and neighbors having a party and another neighbor complaining about the vacation rental parking where the police have to go find out who is parking on the street. Or perhaps in the course of the investigation on the parking the officer might find there are more than 10 people in the rental but would still have to gather proof of the situation.

Nancy Crowley said moving into a residential neighborhood with zoning implies giving up some property rights. She stated, "I do not want a business running next to me. I live in a residential neighborhood."

Lynn Marsh said on Thanksgiving Day there was a problem in Dixie Springs with basketball and parking and lights and other disturbances.

Mayor Bramall called for a 2 minute break at 6 p.m.

Mayor Bramall called the meeting back to order at 6 p.m. Arthur LeBaron led the Pledge of Allegiance and Darin Larson offered a prayer.

6:15 p.m. – Public Forum – Comments From Public amend agenda to move to 6:10 p.m.

Lynn Marsh asked about the field trip to Dixie Springs and if they found the violations already in effect. He said the sport court light installed on one of the vacation rental properties is blinding the neighbors. On property regularly has 15 – 20 cars parked at it and there is a violation every day in the units. He said he feels it is a violation of the subdivision requirements for single family residents. He said these violations are affecting residential property owners. He said he has talked to 100 residents and they are not in favor of vacation rentals.

Nancy Crowley provided the Council members with results of a survey she took of residents who get her Dixie Springs newsletter. She stated her concern that enforcement will fall on the residents of Dixie Springs, explaining there are problems all the time.

A question of whether CC&R's which state one single family in home are being violated with multiple people and families in the vacation rentals.

John Bramall said he has seen lawsuits go on for years over private property rights, mostly to do with public right of ways. He stated he believes it is a lot nicer to be tolerant of neighbors and commented maybe neighbors are people who show up for the night.

Consideration and possible approval of an ordinance amending Title 3, Business Licensing, Section 10

Transient Lodging Facilities, Subsection 11 Short Term Vacation Rental – Drew Ellerman, a resident of Hurricane City, who works for Washington City as the Community Development Director, thanked the Council for giving him an opportunity to comment on the ordinance. He explained how Washington City has been handling vacation rentals and discussing it. They now have two ordinances in Washington – one is for an overlay zone on an area with 5 or more homes or 5 acres so people buy in knowing it is for vacation rentals. The other option was a conditional use permit with the following most important items required to get the permit: located on a lot of 10,000 square feet or more; complies with all building code and fire code; limited to 10 transient occupants without a sprinkling system; no structural or landscape or other changes to; and is granted approval from 75% of the property owners within a 500' radius of property or from HOA of subdivision on a notarized form. Other requirements including being controlled by a property management company within 20 miles, adequate off street parking which does not include parking on streets, and the condition that the permit is non-transferrable.

Mr. Ellerman said as a property owner and a family member who lives in a neighborhood, he felt the need to have buy-off from surrounding property owners who will be affected.

The Council members talked with Mr. Ellerman about the lawsuit in Washington City regarding the vacation rental in their jurisdiction. Mr. Ellerman said the City prevailed but it did cost the city some attorney fees.

He explained there are about 50-70 rentals in the Coral Ridge project which was zoned for them. No other locations have been able to get all the required signatures to date.

Darin Thomas asked if Washington City wrote it to shut them down. Mr. Ellerman explained it was not to shut down vacation rentals but to protect neighborhoods. He said people move into a residential neighborhood – they are investing all their blood, sweat, and tears in their homes. The Washington ordinance does not shut down commercial activity in commercial zones. Mr. Ellerman stated a bad vacation rental, as some of their illegal ones have been, is terrible. It is not just bad. It terrorizes a neighborhood.

He said, "As a citizen – I would ask the Council to go further than the 1000' proposed for separation." When a Council member commented only a few residents have complained he reminded them that only residents with a problem will show up for meetings.

The process for how the Code Compliance Officer in Washington City enforces vacation rentals was discussed. Mr. Ellerman estimated the officer spends probably at least one full day of 20 per month on vacation rentals. He stated St. George City has one full time employee tracking down vacation rentals in the city.

Cheryl Reeve asked how vacation rental businesses already in operation are treated. Mr. Ellerman and Fay Reber confirmed a city can't grandfather an illegal business.

The Council members discussed the idea of the conditional use permit and debated the different criteria used in Washington City. They questioned whether it would work to protect places like Dixie Springs.

Darin Thomas said the same people ran out 9 people who wanted to build affordable housing in Dixie Springs are now here wanting the City to run out another idea in Dixie Springs. He commented this Dixie Springs group wants the City to regulate everything rather than enforce their own regulations or change them.

Ethelyn Humphries state the Dixie Springs residents were able to change the CC&R's to increase the minimum square footage to keep out affordable housing and then change it back so they can be changed if the residents want to keep out vacation rentals. Resident Nancy Crowley objected, stating there are complications with changing the CC&R's and they just want to protect their residential zoning.

Kevan Adams asked why in the proposed ordinance it is limited to one vacation rental per person or corporation. Toni Foran explained the intent for the Planning Commission was to limit the number of them and to keep one owner from Salt Lake City have an impact on many neighborhoods. She said it is difficult to regulate because one owner with rental property often has a separate LLC for each address.

Mr. Adams asked about the motels that are owned by one corporation in commercial zones yet only one person can own and use as a vacation rental. Drew Ellerman commented in Washington City in their PCD that Ivory Homes was building out they limited it to one vacation rental per owner. It was clarified Hurricane City has made it possible for developers to customize zoning in master planned communities and there are several with vacation rentals where they are owned by one corporation.

Darin Larson said two weeks ago he felt the Council was pretty comfortable with the ordinance as it was written except for the time of day noise restrictions and he felt with a consensus of 500' for the distance for the separation.

Jarod Brisk asked about enforcement at 3 a.m. He stated the Police Department will be called and this ordinance is going to cost money for enforcement. The Council discussed changing the licensing fee to cover costs. Kevin Tervort stated the higher license fees pay for enforcement on beer licenses. The transient room tax was discussed but there is not enough history yet as many of the vacation rentals are probably annual filers so the City has not seen the taxes.

Jarod Brisk said he feels the Washington City model is more enforceable. Toni Foran commented the Durango code is well written in terms of being better organized and more understandable.

Clark Fawcett stated people locate in an area because it is residential. He has not been out and looked at the rentals but does not understand changing the zone. He asked why the City is messing with residential zones, especially since they know it is going to be a problem. He questioned why the Council is not just using the Residential Resort zone for people who want the vacation rentals. He said he does worry a little because it can take away from hotels but it is a different type of clientele so that is less of a concern. He asked, "This is causing problems and controversy for what reason? Zoning is set and can be defended – people know they can't build a hotel or build pig farm in residential zoning. Why does the City have to give property owners the right to have a commercial business in a residential zone?" He said it is harder to enforce distance than whether it can be done or not.

Mr. Fawcett and the Council discussed the results of attempting to bring regulation to the vacation rentals. Now there is an uproar about it but there was very little disturbance when they were not regulated.

Fay Reber stated his concern with the amount of time and effort it will take to enforce the ordinance. He said there are enforcement cases moving towards court in Washington City. He said he does not believe that 12 months is excessive to go back and review the ordinance to be sure everything is right before passing the ordinance. The business licenses granted now are legal and grandfathered but are not transferrable.

Kevin Tervort made a motion to extend moratorium for six months. Motion died for lack of second.

Ethelyn Humphries motioned to continue this item for two weeks to incorporate some of the concerns discussed tonight even if it requires a special meeting, with the possibility of extending the moratorium, seconded by Kevin Tervort. Motion unanimously approved with Darin Larson, Darin Thomas, Ethelyn Humphries and Kevin Tervort all voting aye.

The Council directed Toni Foran to work on incorporating some of the Durango and Sonoma County ordinance features into the draft for the Council and to send it out for comments when it is ready rather than wait for the next meeting agenda.

Consideration and possible approval of a grading permit request-Brad Oliverson& Charles Hammon –

The applicant was not present. Kevin Tervort motioned to table the item, seconded by Darin Larson. Motion unanimously approved with Darin Larson, Darin Thomas, Ethelyn Humphries and Kevin Tervort all voting aye.

Mayor, Council and Staff reports

Mayor Bramall	Airport, Administration, Building, Police, Animal Control, School Crossing Guards, Emergency Management, Victim Services, Public Works, Engineer
Ethelyn Humphries	Sewer District, Fire District, Solid Waste, Building Inspector
Pam Humphries	Court, Water, Power, Hurricane Valley Fire District
Darin Larson	Planning Commission, Economic Development, Planning Department
Darin Thomas	Recreation, Parks & Cemetery, Swimming Pool, Board of Adjustment, Historical Preservation, Beautification
Kevin Tervort	Golf Course, Streets & Drainage, Industrial Park, Youth City Council, Mosquito Abatement
Clark Fawcett	City Administration

Adjournment – Meeting adjourned at 7:05 p.m.